

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:18-CV-140-BO

DEANNA L. GATES,)
v. Plaintiff,)
WAFFLE HOUSE CORP., et al.,)
Defendants.)

O R D E R

This cause comes before the Court on the memorandum and recommendation by United States Magistrate Judge Robert T. Numbers, II. [DE 6]. On January 9, 2019, Judge Numbers recommended that plaintiff be permitted to proceed *in forma pauperis* but that some of her claims be dismissed. *Id.* No objections to the M&R have been filed and the matter is ripe for review. For the reasons that follow, the M&R is ADOPTED.

BACKGROUND

In August 2018, plaintiff filed a *pro se* application to proceed *in forma pauperis* under 28 U.S.C. § 1915. [DE 1]. Plaintiff alleges that defendant Waffle House discriminating against her on the basis of her race by disciplining her unfairly, failing to train her properly, failing to consider her for promotions, and failing to address threats made by other workers. [DE 1-2, p. 3-4]. She further alleges that defendant Waffle House created a hostile work environment and retaliated against her for complaining of discriminatory conduct. *Id.* Plaintiff alleges claims against Waffle House and five individual defendants who were managers or employees of Waffle House. *Id.*

In January 2019, Judge Numbers entered the instant memorandum and recommendation (M&R), granting plaintiff's application to proceed *in forma pauperis* and recommending that some

of plaintiffs' claims be dismissed for failure to state a claim upon which relief can be granted. [DE 6].

DISCUSSION

A district court is required to review *de novo* those portions of an M&R to which a party timely files specific objections or where there is plain error. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). “[I]n the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation and citation omitted).

No party has objected to the M&R and the time for doing so has passed. The Court has reviewed the M&R and is satisfied that there is no clear error on the face of the record. Accordingly, the memorandum and recommendation is ADOPTED.

CONCLUSION

The memorandum and recommendation of Magistrate Judge Numbers is ADOPTED. All of plaintiff's claims are DISMISSED except (1) her Title VII claims against defendant Waffle House; (2) her 42 U.S.C. § 1981 claims of discrimination, failure to hire, and hostile work environment against Waffle House, Ms. Allen, Mr. Martinez, and Mr. Dean; and (3) her defamation claims against Ms. Allen, Mr. Martinez, and Ms. Stubbs.

SO ORDERED, this 12 day of February, 2019.


TERRENCE W. BOYLE
CHIEF UNITED STATES DISTRICT JUDGE